

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN THE MATTER OF THE PETITION
OF KAVANAGH FISHERIES, INC.
OWNER OF THE F/V ATLANTIC
FOR EXONERATION FROM OR
LIMITATION OF LIABILITY

Civil Action No. 05-cv-10637-GAO

**ZIM'S CLARIFICATION RE PROPOSED ORDER DIRECTING ISSUANCE OF
NOTICE AND RESTRAINING PROSECUTION OF CLAIMS**

Claimants Zim American Integrated Shipping Services Ltd; Zim Israeli Integrated Shipping Services Ltd; Zim American Israeli Shipping Company Inc.; and Zim Israel Navigation Company Ltd. (collectively "Zim") respectfully submit, as mentioned by Attorney Muzyka at the May 18, 2005 hearing, that the limitation injunction does not extend to petitioner's underwriters. 46 U.S.C. § 183 (Limitation of Shipowners' Liability Act provides for limitation by "the owner of any vessel, whether American or foreign"); Fed. R. Civ. P. Supp. F(3) ("...all claims and proceeding against the owner or the owner's property with respect to the matter in question shall cease....").

Zim is not suggesting any claimants here might have a direct action claim against petitioner's underwriters, but rather that underwriters are not parties entitled to limitation of or exoneration from liability under the Limitation of Shipowner's Liability Act. Maryland Casualty Co. v. Cushing, 347 U.S. 409, 422 (1954) ("liability underwriters are not entitled to 'limitation of liability' as that phrase is used as a term of art in admiralty.").

The third line from the bottom of the proposed order should therefore read:
"Petitioner or any of its property with respect to any claims for which".

RESPECTFULLY SUBMITTED May 26, 2005.

De ORCHIS & PARTNERS, LLP
Attorneys for Claimants

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Certificate of Service

I certify I served this clarification on
Attys Regan/Saloman and Muzyka/
Collins by e-mail on May 26, 2005.

/s/ David J. Farrell, Jr.

David J. Farrell, Jr.